

JUN 22 2006

REMARKS

The Office Action mailed March 23, 2006 has been received and reviewed. Claims 1-20 are in the case. Claims 1-5, 9, 11, 16-18, and 20 stand rejected under 35 U.S.C. § 102(b). Claims 6-8, 10, 12-15, and 19 stand rejected under 35 U.S.C. § 103(a).

By this paper, claims 1, 11, 16, and 20 have been amended. For the reasons set forth below, claims 1-20 are believed to be in condition for immediate allowance. Favorable reconsideration of the application in view of the following remarks, is therefore respectfully requested.

Rejection of Claims 1-5, 9, 11, 16-18, and 20 Under 35 U.S.C. §102(b)

Claims 1-5, 9, 11, 16-18, and 20 stand rejected under 35 U.S.C. §102(b) as being anticipated by Safko.

For a prior art reference to anticipate, every element of the claimed invention must be identically disclosed in a single prior art reference. Moreover, those elements must be arranged or connected together in a single reference in the same way as specified in the patent claim. With respect to the newly amended claims, Safko does not meet this test.

With respect to claims 1-5, 9, and 11, Safko does not disclose a flexible member where "the second portion gradually pull[s] the first portion around the second end during backing of the vehicle," as required by Applicant. As can be seen in Figures 1 and 4, during use, the cargo unit 5 of Safko continues to extend out the end of the bed of the truck 1. The cargo unit 5 is never pulled around the bumper by the belts 3, 4. In fact, the belts 3, 4 are connected to the cargo unit 5 at a location rendering them incapable of gradually pulling the cargo unit 5 around the bumper. Accordingly, Safko does not disclose all of the elements recited in Applicant's claims

1-5, 9, and 11. Reconsideration is, therefore, respectfully requested.

With respect to claims 16-18, Safko does not disclose "continuing to back the vehicle until a length of the first portion passes under the second end," as required by Applicant. As can be seen in Figures 1 and 4, during use, the cargo unit 5 of Safko continues to extend out above the end of the truck 1. The cargo unit 5 is never pulled under the end of the truck 1 (*e.g.*, under the bumper, etc.). Also, the cables 11 prevent the cargo unit 5 from ever exiting the bed of the truck 1 to the point where the cargo unit 5 could be backed over. Accordingly, Safko does not disclose all of the elements recited in Applicant's claims 16-18. Reconsideration is, therefore, respectfully requested.

With respect to claim 20, Safko does not disclose a motive member having "a second portion extending flexibly . . . to pass around [a] tailgate," as required by Applicant. As can be seen in Figures 1-4, Safko does not disclose passing anything around a tailgate. Moreover, Safko expressly teaches removal of any tailgate before the invention of Safko is implemented. (Safko at col. 1, lns. 39-40.) Accordingly, Safko does not disclose all of the elements recited in Applicant's claim 20. Reconsideration is, therefore, respectfully requested.

**Rejection of Claims 6-8, 10, 12-15, and 19 Under 35 U.S.C. §103(a)**

Claims 6 and 19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Safko. Claims 7, 8, 10, and 12-15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Safko in view of Kellogg.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to

combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. (*See* MPEP 2143.)

With respect to claims 6 and 9, Safko does not establish a *prima facie* case of obviousness. Specifically, Safko fails to teach or suggest all of the claim limitations, as required. As set forth hereinabove, Safko does not teach or suggest a flexible member where “the second portion gradually pull[s] the first portion around the second end during backing of the vehicle,” as required by Applicant. As can be seen in Figures 1 and 4, during use, the cargo unit 5 of Safko continues to extend out the end of the bed of the truck 1. The cargo unit 5 is never pulled around the bumper by the belts 3, 4. Accordingly, Safko does not teach or suggest all of the limitations of Applicant’s claims 6 and 9. Reconsideration is, therefore, respectfully requested.

With respect to claims 7, 8, 10, and 12-15, the combination of Safko and Kellogg does not establish a *prima facie* case of obviousness. For example, there is no motivation to combine the teachings of Safko and Kellogg because Safko teaches against Kellogg. Specifically, the truck 1 taught by Safko would have had a tailgate when originally manufactured. However, as can be seen in Figures 1-4, Safko teaches removal of the tailgate before the invention is implemented. Also, Safko states, “the extensions may be folded 90° to serve as a tail gate to substitute for the tail gate of the vehicle which has been previously removed.” (Safko at col. 1, lns. 39-42 (emphasis added).) Thus, Safko teaches against the use of tailgates.

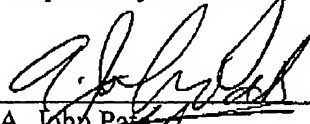
In direct contrast to Safko, Kellogg teaches “a loading tailgate for a truck body.” Thus, Safko’s teaching of tailgate removal is in direct opposition to Kellogg’s teaching of tailgate use. This teaching against destroys any motivation to combine Safko and Kellogg. (*See* MPEP 2143.01.) Accordingly, there can be no proper *prima facie* case built on Safko and Kellogg.

Reconsideration of claims 7, 8, 10, and 12-15 is, therefore, respectfully requested.

In the event that the examiner finds any remaining impediment to the prompt allowance of any of these claims, which could be clarified in a telephone conference, the examiner is respectfully urged to initiate the same with the undersigned.

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Respectfully submitted

  
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